

HEALTH (MISCELLANEOUS PROVISIONS) ACT 1911

LOCAL GOVERNMENT ACT 1995

SHIRE OF CUNDERDIN

ANIMALS, ENVIRONMENT AND NUISANCE LOCAL LAW 2025

Under the powers conferred by the section 342 of the *Heath (Miscellaneous Provisions) Act 1911*, subdivision 2 of Part 3 of the *Local Government Act 1995* and all other powers enabling it, the Council of the Shire of Cunderdin resolved on [insert date] to make the following local law.

Part 1— Preliminary

1.1 Citation

This local law is cited as the *Shire of Cunderdin Animals, Environment and Nuisance Local Law 2025*.

1.2 Commencement

This local law comes into operation on the same day it is published in the *Government Gazette*.

1.3 Application

This local law applies throughout the district.

1.4 Purpose and effect

- (1) The purpose of this local law is to provide for the regulation, control and management of animals and the prevention of environmental damage and nuisances within the district.
- (2) The effect of this local law is to establish the requirements with which any person keeping animals, or undertaking activities that have the potential to impact the environment or create nuisance must comply.

1.5 Definitions

- (1) In this local law, unless the context otherwise requires—

Act means the *Local Government Act 1995*;

affiliated person means a person who is a member of a poultry or pigeon club incorporated under the *Associations Incorporation Act 2015*;

approved, unless the context requires otherwise, means approved in writing by the local government;

approved animal means any farm animal which is the subject of an approval under this local law;

authorised person means a person appointed by the local government, under section 9.10 of the Act to perform all or any of the functions conferred on an authorised person under this local law;

aviary bird means any bird, other than poultry or pigeons, kept, or usually kept in an aviary or cage;

bee hive means a moveable or fixed structure, container or object in which a colony of bees is kept;

birds includes poultry;

builder means the holder of a building permit issued in respect of building works on a

building site or a person in control of a building site;

Building Code means the Building Code of Australia which is volumes 1 and 2, as amended from time to time, of the National Construction Code published by, or on behalf of, the Australian Building Codes Board;

building permit has the meaning given to it by the *Building Act 2011*;

building site means any lot for which a building permit is current;

cattle includes an ox, calf or bull;

cat organisation means an organisation or association referred to in regulation 23(c) of the *Cat Regulations 2012*;

Class 6 building means any Class 6 building as defined by the Building Code;

Class 9 building means any Class 9 building as defined by the Building Code;

Code of Practice—Pigeon Keeping means the document entitled A Code of Practice—May 1994—Pigeon Keeping and Pigeon Racing published in May 1994 by the Pigeon Racing Federation of WA (Incorporated) and the Independent Racing Pigeon Federation (Incorporated), as amended from time to time;

commercial zone means any area zoned ‘Commercial’, or ‘Service Commercial’ under a local planning scheme;

development has the meaning given to it in the *Planning and Development Act 2005*;

development approval means a development approval under a local planning scheme;

development site includes any lot or lots for which there is currently a development or subdivision approval, and any lot or lots upon which construction work, earthworks, clearing of scrub, trees or overgrowth or any other site works are taking or have taken place;

district means the district of the local government;

dust means any visible granular or particulate material which has or has the potential to become airborne and includes organic and non-organic matter and sand, but does not include smoke;

equipment means equipment, machinery or vehicles used for, or in connection with, the development of land;

farm animal includes a buffalo, camel, cattle, deer, goat, horse (excluding a miniature horse), ostrich, pig (excluding a miniature pig), rabbit (used for meat production), sheep, llama or alpaca;

food has the same meaning as is given to it in section 9 of the *Food Act 2008*;

food business has the same meaning as is given to it under section 10 of the *Food Act 2008*;

food premises means any premises including land, vehicles, parts of structures, tents, stalls and other temporary structures, boats, pontoons and any other place declared by the local government to be premises under the Food Act 2008 kept or used for the handling of food for sale, but does include food vending machines or vehicles used only to transport food;

horse includes a stallion, mare, gelding, Shetland pony, pony, colt, filly, foal, ass, mule, donkey, and any beast of whatever description used for burden or draught or for carrying persons;

industrial zone means any area zoned ‘Light Industrial’, ‘General Industrial’, or ‘Industrial Development’ under a local planning scheme;

land includes any building or structure on the land;

licence means a licence issued under this local law;

licence holder means a person who holds a valid licence issued under this local law;

liquid waste means waste from any process or activity that is in liquid form and includes paint, fuel, grease, fat, oil, degreaser solvent, detergent, chemical, animal waste, food waste, effluent and all discharges of liquid to land, air or water that are not otherwise authorised by a written law but does not include uncontaminated stormwater;

livestock means any buffalo, camel, cattle, deer, goat, horse, ostrich, pig, sheep, llama or alpaca;

livestock vehicle means a vehicle that contains livestock or has been used for the carriage of more than fifteen (15) livestock within the previous twelve months;

local government means the Shire of Cunderdin;

local planning scheme has the meaning given to it by the *Planning and Development Act 2005*;

lot has the meaning given to it by the *Planning and Development Act 2005*;

manure receptacle means a receptacle of sufficient capacity to receive all manure produced in 1 week on premises upon which a farm animal or farm animals are kept, and constructed of smooth, durable, impervious materials, fitted with a fly proof, hinged cover and with no part of the floor lower than the adjoining ground;

miniature horse means a horse which meets the standard and height for a miniature horse as described by the Miniature Horse Association of Australia Inc;

miniature pig means a pig that does not exceed 650 millimetres in height as an adult and weighs less than 55 kilograms;

nuisance means an activity or state of affairs which, in the opinion of an authorised person, unreasonably interferes with the health, safety, comfort or convenience of the public at large.

owner has the meaning given to it in the Act;

occupier means any person who is in control of any land or part of any land or authorised by the owner, lessee, licensee or any other person empowered to exercise control in relation to land to perform any work in relation to any land and includes a builder or contractor;

pigeon includes homing pigeons but does not include native pigeons or doves whether or not the keeping of such birds is subject to the approval of the Parks and Wildlife Service;

poultry includes fowls, roosters, ducks, peafowls, turkeys, geese, guinea fowls, pheasants and other birds commonly kept for the production of eggs or meat for domestic consumption;

premises includes a building or structure, or part of a building or structure, of any type;

refuse means any material determined by an authorised person to be refuse and is not limited to, but may include waste material including bricks, lime, cement, concrete, dirt, rubble, stones, soil, iron, timber, tiles, bags, plastics, ashes, vegetation, timber, wood or metal shavings, sawdust, and waste food, and includes any broken, used, derelict or discarded matter;

residential building has the meaning given to it in the Residential Design Codes of Western Australia, as amended from time to time;

Residential Design Codes means the Residential Design Codes developed by the Department of Planning to provide the basis for the control of residential development throughout Western Australia;

residential zone means any area zoned 'Residential' or 'Rural Townsite' under a local planning scheme;

rural zone means any area zoned 'Rural' under a local planning scheme, excluding areas zoned Rural Residential;

rural residential zone means any area zoned 'Rural Residential' under a local planning scheme;

sand means granules or particles of rock, earth, clay, loam, silt and any other granular, particulate or like material including dust and gravel;

Schedule means a Schedule to this local law;

stormwater means any naturally occurring water that results from rainfall on or around a site, or natural water flowing onto a site;

street means any highway or thoroughfare which the public is entitled to use, including the verge and other things including bridges and culverts appurtenant to it;

subdivision approval means a subdivision approval under the *Planning and Development Act 2005*;

thoroughfare means a road or other thoroughfare and includes structures or other things appurtenant to the thoroughfare that are within its limits, and nothing is prevented from being a thoroughfare only because it is not open at each end;

truck means a motor vehicle having a tare weight in excess of 4,500 kilograms;

unreasonable noise has the meaning given to it by the *Environmental Protection Act 1986*;

vectors of disease includes fleas, flies, bedbugs, cockroaches, lice and any other insect prescribed by the local government;

vehicle includes –

(a) every conveyance, not being a train or aircraft, and every object capable of being propelled or drawn, on wheels, tracks or otherwise;

but excludes –

(b) a wheel-chair or any device designed for use, by a physically impaired person on a footpath; and

(c) a pram, a stroller, shopping trolley or a similar device; and

vermin includes rats, mice, flies, fleas, mites, lice, cockroaches and any other animal, whether vertebrate or invertebrate, which is known to be a vector of disease or likely to cause damage to human food, habitation or possessions.

(2) Any other expression used in this local law and not defined herein shall have the meaning given to it in the Act.

(3) Where, in this local law, a duty, obligation or liability is imposed on an "owner or occupier" the duty shall be deemed to be imposed jointly and severally on each owner and occupier.

(4) Where, under this local law, the local government is authorised to carry out actions, or cause to be undertaken works, as a consequence of the failure of any person to comply with the terms of a notice or other conduct, the right to enter land is at all times subject to the provisions of Part 3, Division 3, subdivision 3 of the Act.

1.6 Keeping of animals

Part 2 of this local law is subject to the provisions of the *Biosecurity and Agriculture Management Act 2007* and the *Animal Welfare Act 2002*.

Part 2 – Keeping of animals

Division 1 - Animals

2.1 Interpretation

In this Division, unless the context otherwise requires **animal** includes cats, dogs, rabbits and ferrets or the like.

2.2 Cleanliness

An owner or occupier of premises in or on which a dog, cat or other animal is kept shall—

- (a) keep the premises, unless in an approved receptacle, free from excrement, filth, food waste and all other matter which is or is likely to become offensive or injurious to health, or to attract rats or other vectors of disease;
- (b) when so directed by an authorised person, clean and disinfect the premises; and
- (c) keep the premises, so far as practicable, free from flies or other vectors of disease, by spraying with a residual insecticide or other effective means.

2.3 Animal enclosures

- (1) A person shall not keep or cause, or permit to be kept, any animals on premises which in the opinion of an authorised person, are not effectively drained.
- (2) The owner or occupier of premises where animals are kept shall, when directed by an authorised person, pave, grade and drain the floors of all structures and the surface of the ground of all enclosures used for the keeping of animals.

2.4 Cats

- (1) Subject to subclauses (6) and (7), a person shall not, without an exemption in writing from the local government –
 - (a) keep more than 3 cats over the age of 6 months; or
 - (b) if the person is a member of a cat organisation, keep more than 9 cats over the age of 6 months,on any land within the district.
- (2) An owner or occupier of premises may apply in writing to the local government for exemption from the requirements of subclause (1).
- (3) The local government shall not grant an exemption under subclause (2) unless it is satisfied that the number of cats to be kept will not be a nuisance or injurious or dangerous to health.
- (4) An exemption granted under this clause shall specify—
 - (a) the owner or occupier to whom the exemption applies;
 - (b) the premises to which the exemption applies; and
 - (c) the maximum number of cats which may be kept on the premises.
- (5) Subject to the *Cat Act 2011*, a person who is granted an exemption under subclause

- (2) may be required to house, or keep cats in such manner as directed by an authorised person.
- (6) A person may keep more than 3 cats over the age of 6 months on premises used for veterinary purposes or as a pet shop.
- (7) A person shall not breed cats on any premises unless the person is an approved cat breeder under the *Cat Act 2011*.

Division 2 – Keeping of birds

2.5 Keeping of poultry and pigeons

Unless approved by the local government under clause 2.6, an owner or occupier of premises of land within a residential zone, a rural residential zone, an industrial zone or a commercial zone, shall not keep or permit to be kept on the premises -

- (a) more than 12 poultry; or
- (b) more than 12 pigeons, unless the owner or occupier is an affiliated person in which case they must not keep more than 100 pigeons.

2.6 Application for approval to keep poultry and pigeons in a residential zone

- (1) The local government may approve the keeping of poultry or pigeons in excess of the numbers specified in clause 2.5 on land within a residential zone, a rural residential zone, an industrial zone or a commercial zone, subject to the following—
- (a) the owner or occupier submitting an application to the local government which —
 - (i) specifies the number of poultry or pigeons proposed to be kept; and
 - (ii) includes a site plan showing lot size, location of enclosure, distance from boundaries and buildings and proximity to houses on adjoining land.
 - (2) The local government may, at its discretion, conduct public consultation with all owners/occupiers whose property abuts the applicant's property prior to the application being determined.
 - (3) The local government may approve, with or without conditions, or refuse to approve, an application received under this clause.
 - (4) Where an approval for the keeping of poultry or pigeons is issued subject to conditions, the holder of the approval shall comply or cause compliance with those conditions.

2.7 Conditions for keeping of poultry

A person who keeps poultry or permits poultry to be kept shall ensure that—

- (a) the poultry is kept not less than 9 metres from any residential building;
- (b) the poultry is not able to approach within 15 metres of a public street, public building, commercial premises or food premises;
- (c) the poultry is kept in a properly constructed and securely fixed structure;
- (d) the structure in which the poultry is kept has a floor with a fall of at least 1 in 50 away from the closest two boundaries of the land;
- (e) all structures or enclosures within which poultry are kept are maintained at all times, in the opinion of an authorised person, in a clean condition; and
- (f) all poultry is kept continually confined.

2.8 Roosters, geese, turkeys and peafowl

Except on land within a rural zone, an owner or occupier of premises shall not keep any of the following—

- (a) roosters;
- (b) geese;
- (c) turkeys; or
- (d) peafowls.

2.9 Conditions for keeping of pigeons

- (1) A person who keeps pigeons, or permits pigeons to be kept, shall ensure that—
 - (a) the pigeons are kept in a pigeon loft which is, in the opinion of an authorised person, properly constructed, except where registered homing pigeons are freed for exercise;
 - (b) any structure or enclosure within which pigeons are kept is, in the opinion of the authorised person, maintained at all times in a clean condition;
 - (c) no opening to a pigeon loft, including openings for ventilation, is within 9 metres of any residential building; and
 - (d) no opening to a pigeon loft, including openings for ventilation, is within 15 metres of a public street, public building, commercial premises or food premises.
- (2) An affiliated person who keeps pigeons, or permits pigeons to be kept, shall do so in accordance with the Code of Practice—Pigeon Keeping, subject to the provisions of this local law.

2.10 Termination of approval to keep poultry or pigeons

If an owner or occupier of premises to whom an approval to keep poultry or pigeons has been granted by the local government pursuant to subclause 2.6(3)—

- (a) breaches a condition of the approval;
- (b) breaches clause 2.7 or clause 2.9 of this local law; or
- (c) fails to comply with a written notice served by the local government in relation to the keeping of poultry or pigeons;
- (d) or otherwise at the discretion of the local government,

the local government may cancel its approval upon written notice of such cancellation being given to the owner or occupier within 60 days of the breach or failure to comply as the case may be.

2.11 Restrictions on pigeon nesting and perching

The local government may order an owner or occupier of a land on or in which pigeons are, or are in the habit of nesting or perching, to take adequate steps to prevent them from continuing to do so.

2.12 Conditions of keeping aviary birds

A person who keeps, or permits to be kept, aviary birds shall ensure that—

- (a) the aviary or cage in which the birds are kept is located at least 1 metre from any lot boundary and at least 5 metres from a residential building on any other lot;

- (b) there is a floor beneath the roofed area of the aviary or cage which is constructed of smooth, impervious material with a gradient of at least 1 in 50 away from the closest two boundaries of the lot;
- (c) the aviary or cage is kept in clean condition and good repair at all times;
- (d) all feed for the birds other than that intended for immediate consumption is stored in vermin proof containers; and
- (e) effective measures are taken to prevent the attraction or harbourage of vermin.

2.13 Nuisance caused by birds

An owner or occupier of land shall not keep any bird or birds which—

- (a) are or create a nuisance; or
- (b) emit an unreasonable noise.

Division 3-Keeping of bees

2.14 Definition

In this Division, unless the context otherwise requires, **licence** means a licence to keep bees issued under this local law.

2.15 Licence required to keep bees

- (1) Subject to the provisions of this clause, a person shall not keep bees or allow bees to be kept on land except in accordance with a valid licence issued under this local law in relation to the land.
- (2) Subclause (1) does not apply where—
 - (a) the land is within a rural zone, a commercial zone or an industrial zone; and
 - (b) the bees are kept at least 500 metres from any thoroughfare and any property boundary.

2.16 Application for a licence

An applicant for a licence shall—

- (a) provide such details as may be required by the local government;
- (b) apply in the form approved by the local government; and
- (c) pay any application fee imposed by the local government under sections 6.16 to 6.19 of the Act.

2.17 Determination of application

- (1) The local government may—
 - (a) refuse to determine an application for a licence which does not comply with clause 2.16; and
 - (b) approve an application for a licence subject to such conditions as it considers appropriate; or
 - (c) refuse to approve an application for a licence.
- (2) Where an application for a licence is approved subject to conditions, the licence holder is to comply with those conditions or is to cause those conditions to be complied with.
- (3) Where the local government approves an application under subclause (1)(b), it is to issue

to the applicant a licence in the form approved by the local government.

- (4) A licence is valid from the date of issue unless, and until, it is cancelled under this local law.

2.18 Conditions of approval

- (1) Without limiting the generality of paragraph 2.17(1)(b), an application for a licence may be approved subject to the following conditions—
- (a) the owner or occupier of the land must ensure a good and sufficient water supply is provided on the land which is readily accessible by the bees;
 - (b) each beehive shall be—
 - (i) kept at a distance specified by the local government from any thoroughfare, public place or boundary of the land; or
 - (ii) located near a screen or other barrier so as to prevent the bees flying low over a thoroughfare, public place or adjoining land;
 - (iii) no more than 2 bee hives are to be kept on land of less than 2000 square metres in area; and
 - (iv) no more than 15 bee hives are to be kept on land between 2000 square metres and 20000 square metres in area.
- (2) In respect of a particular application for a licence, the local government may vary any of the conditions referred to in subclause (1).

2.19 Variation or cancellation of licence and conditions

- (1) The local government may vary the conditions of a licence after it has been issued.
- (2) The local government may cancel a licence on the request of a licence holder to do so.
- (3) Notwithstanding clause 2.19(2), a licence shall be cancelled on the expiration of a continuous period of 12 months during which the licence holder has not kept any bees on the land to which the licence relates, without any action required on the part of the local government.

2.20 Licence holder to notify cessation of registration or keeping of bees

- (1) In this clause a licence holder includes the holder of a licence cancelled by subclause 2.19(3).
- (2) A licence holder is to notify the local government in writing as soon as practicable after a continuous period of 12 months has passed during which the licence holder has not kept any bees on the land described in her or his licence.
- (3) A licence holder shall, within 7 days of the local government giving the licence holder a written notice to do so, provide to the local government in respect of land identified by the local government in its notice, a signed statement as to whether or not he or she has kept bees on the land within the 12 months preceding the date of the notice.

2.21 Licence not transferable

A licence is personal to the licence holder and applies only to the land described in the licence.

2.22 Nuisance

A person shall not keep, or allow to be kept, bees or bee hives, or both, on land so as to create a nuisance.

2.23 Notice to remove bees

- (1) Whenever, in the opinion of the local government, a person has contravened any provision of the *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013* or of this local law which relates to the keeping of bees or bee

hives, the local government may give the licence holder in relation to the land on which the bees are kept, or if there is no licence holder in relation to that land, the owner or occupier of the land, a written notice requiring her or him to remove any bees or bee hives, or both, from the land within the time specified in the notice.

- (2) Subject to Division 1 of Part 9 of the Act, on the giving of a notice referred to in subclause (1), any valid licence given by the local government relating to the keeping of bees or bee hives on that land is cancelled from the time specified in the notice, being not less than 7 days from the date it is given.
- (3) Where a person fails to comply with a notice given under subclause (1), the local government may dispose of the bees or the bee hives or both, in such manner as it sees fit and recover the costs of so doing from the licence holder, or an owner or occupier, as the case may be, as a debt due to it.

Division 4-Keeping of farm animals

2.24 General conditions for keeping farm animals

- (1) Unless varied by the terms of a development approval, an owner or occupier of premises upon which a farm animal is kept shall, in the opinion of, or as required by an authorised person, —
 - (a) maintain the place or places where the animals are kept in clean condition;
 - (b) ensure that any farm animal or farm animals kept on the premises does not cause or constitute a nuisance;
 - (c) maintain the premises free from flies or other vermin by spraying with residual insecticide or other effective means;
 - (d) if a manure receptacle is required to be used—
 - (i) cause all manure produced on the premises to be collected daily and placed in the receptacle;
 - (ii) cause the receptacle to be emptied as often as is necessary to prevent it becoming offensive or a breeding place for flies or other vermin, but in any case at least once a week; and
 - (iii) keep the lid of the receptacle closed except when manure is being deposited or removed; and
 - (e) not permit any farm animal to approach within 15 metres of any residential building, food premises, Class 6 building, or a Class 9 building, or a business or commercial premises.
- (2) An owner or occupier of land in a rural zone shall not keep more than 15 pigs unless the premises is registered as a piggery pursuant to the provisions of the *Health (Miscellaneous Provisions) Act 1911* and the keeping of more than 15 pigs is the subject of a development approval.

2.25 Keeping a miniature horse

- (1) An owner or occupier of land may keep a miniature horse provided —
 - (a) the miniature horse is sterilised;
 - (b) the area of land on which the miniature horse is kept has an area of not less than 1000 square metres;
 - (c) the miniature horse is registered with the local government; and
 - (d) the annual registration fee approved from time to time by the local government in

accordance with sections 6.16 to 6.19 of the Act has been paid.

- (2) An owner or occupier of land within a residential zone shall —
 - (a) not keep more than 1 miniature horse without the written approval of the local government or an authorised person; and
 - (b) not permit a miniature horse to come within 9 metres of any house.
- (3) The local government or an authorised person may prohibit the keeping of a miniature horse on any land or may state the conditions under which a miniature horse may be kept.

2.26 Keeping a miniature pig

- (1) A person may keep 1 miniature pig on any land other than land in the rural zone provided the pig is registered with the local government and the annual registration fee approved from time to time by the local government in accordance with sections 6.16 to 6.19 of the Act has been paid.
- (2) An owner or occupier of land where a miniature pig is kept shall—
 - (a) ensure the miniature pig is sterilised and provide, on request by an authorised person, written proof of its sterilisation;
 - (b) confine the miniature pig on the land at all times;
 - (c) ensure the miniature pig does not cause a nuisance; and
 - (d) maintain documentary evidence that the miniature pig's veterinary treatment against roundworm and tapeworm is current.

2.27 Requirements for farm animal shelters

- (1) An owner or occupier of land on which there is a farm animal may be required by an authorised person to provide a stable, enclosure or shelter for that farm animal that —
 - (a) is not situated within 15 metres of any residential building, Class 6 building, Class 9 building, business premises or food premises;
 - (b) is not situated within 1 metre of any lot boundary;
 - (c) is constructed of materials approved by an authorised person;
 - (d) has on each side of the stable, enclosure or shelter a clear opening of at least 150 millimetres in height and of sufficient length between the wall and roof to provide adequate ventilation to the structure;
 - (e) has a separate stall for each animal, the shortest dimension of which shall be at least twice the length of the animal housed therein; and
 - (f) subject to subclause (2), have a floor, the upper surface of which shall—
 - (i) be raised at least 75 millimetres above the surface of the surrounding ground;
 - (ii) be constructed of cement, concrete or other approved material; and
 - (iii) have a fall of 1 in 100 to a drain which shall empty into an approved drainage system.
- (2) A stable or shelter constructed with a sand floor may be approved by an authorised person and may be subject to the following conditions —
 - (a) the site being well drained, with the sand floor being at least 1.5 metres above the highest known ground water level;

- (b) a 300 millimetre thick bed of crushed limestone, or other approved material approved by an authorised person, being laid under the sand of the stable;
 - (c) the sand, whether natural or imported, being clean, coarse and free from excessive dust, as determined by an authorised person;
 - (d) footings to the stable or shelter being a minimum of 450 millimetres below ground level, or footing approved by an authorised person; and
 - (e) if required the design of the stable allowing for the access of small earthmoving machinery, such as a skid steer loader, into each stall to maintain the correct floor height.
- (3) An owner or occupier of any land upon which a stable or shelter is located must ensure that the stable or shelter complies in all respects with the requirements of subclause (1), and, where the approval referred to in subclause (2) has been granted, with the requirements of subclause (2).

Division 5-Livestock

2.28 Livestock not to stray

The owner or person in charge of livestock shall not permit livestock to stray or to be at large in a street, public place or upon private property without the consent of the owner of that private property.

2.29 Impounding of livestock

- (1) An authorised person or a member of the police force may impound livestock found straying in contravention of clause 2.28.
- (2) Livestock being impounded shall be placed in the pound or secured on private property with the consent of the owner.

2.30 Property to be fenced

- (1) The owner or occupier of property on which livestock is kept, shall cause the property or a portion of the property to be fenced in a manner capable of confining the livestock, to that portion where the livestock is kept.
- (2) The minimum fencing requirements to confine livestock in a rural or special rural area shall be a fence of post and wire construction.

Part 3 – Building, development and land care

Division 1-Litter and refuse on building sites

3.1 Provision of refuse receptacles

The owner or occupier of a building or development site shall at all times provide and maintain a refuse receptacle, available for use on the site, which includes a suitable cover, to the satisfaction of an authorised person, of such design as will—

- (a) contain any refuse likely to be produced on the site; and
- (b) prevent refuse being blown from the receptacle by wind.

3.2 Control of refuse

- (1) From the time of commencement of works on a building site or development site until the time of completion of such work, the owner or occupier of the site shall take reasonable measures, in the opinion of the authorised person, to—

- (a) ensure all refuse on the site is placed and contained in the refuse receptacle and prevented from being blown from the site by wind;
 - (b) keep the site free from any refuse as required by an authorised person;
 - (c) keep the street verge, and any other reserve, immediately adjacent to the site, free of refuse from the site; and
 - (d) ensure the refuse receptacle is emptied when full.
- (2) The owner or occupier of a building site or development site shall ensure that within 2 days of completion of works on the site, the site and the street verge immediately adjacent to it, are cleared of all refuse and all refuse receptacles are removed from the site.

Division 2—Prevention of dust and liquid waste

3.3 Prohibited activities

- (1) An owner and/or occupier of land shall take reasonable steps to—
- (a) stabilise dust on the land;
 - (b) contain all liquid waste on the land; and
 - (c) ensure, in the opinion of an authorised person, that no excessive dust or liquid is released or escapes from the land, whether by means of wind, water or any other cause.
- (2) Where the local government or authorised person forms the opinion that—
- (a) an owner or occupier has not complied with subclause (1)(a) or subclause (1)(b); or
 - (b) the excessive dust or liquid waste has been released or escaped from the owner's or occupier's land, the local government may serve on the owner and/or occupier of the land, a notice requiring the owner and/or occupier to do one or more of the following—
 - (i) comply with subclause (1)(a) or (1)(b);
 - (ii) clean up and properly dispose of any released or escaped dust or liquid waste;
 - (iii) clean up and make good any damage resulting from the released or escaped dust or liquid waste; and
 - (iv) take effective measures to stop any further release or escape of dust or liquid waste;
 - (c) the requirements set out in a notice issued under subclause (2)(a) must be complied with—
 - (i) within 48 hours of service of the notice where no other time is specified;
 - (ii) within such other period as is specified in the notice; or
 - (iii) immediately, if the notice so specifies.
- (3) Where the local government or authorised person forms the opinion that excessive dust or liquid waste has escaped or has been released from an activity undertaken on land or as a consequence of the use of equipment on land, the local government may serve a notice on—
- (a) any owner or occupier of the land; or
 - (b) any operator of equipment on the land,
- requiring that the activity or use of equipment on the land be ceased immediately, for such period as is specified in the notice.
- (4) Where the local government or authorised person is of the opinion that excessive dust or liquid waste may be released or escape from any land as a result of an activity which is likely

to be carried out from any land, the local government may give to the owner and/or occupier a notice providing that the activity may only be carried out subject to conditions specified in the notice.

3.4 Dust management

If an owner or occupier of land intends to undertake any work involving the clearing of land from which any excessive sand or excessive dust is likely to be released whether by means of wind, water or any other cause, the owner or occupier shall—

- (a) submit to an authorised person a Dust Management Plan in accordance with “A guideline for managing the impacts of dust and associated contaminants from land development sites, remediation and other related activities (2011)” as produced by the Department of Environment Regulation, and amended from time to time; and
- (b) obtain written approval of the Dust Management Plan from an authorised person before commencement of any work.

Division 3—Smoke

3.5 Burning of cleared vegetation prohibited

An owner or occupier of any building site or development site shall ensure that no vegetation or other material cleared from the site is burnt on the site unless authorised by the local government or authorised person.

Division 4—Unsightly land

3.6 Removal of refuse and untidy materials

- (1) The owner or occupier of a lot or premises, shall not keep, or permit to remain on the lot, any refuse, rubbish or other material of whatever nature or kind which in the opinion of the local government or an authorised person is likely to give the lot an untidy appearance and does not conform with the general appearance of other land in that particular part of the district.
- (2) The local government or an authorised person may give notice in writing to the owner or occupier of a lot requiring the removal of refuse, rubbish or other material from the lot within the time specified in the notice.

3.7 Removal of unsightly overgrowth of vegetation

- (1) The owner or occupier of a lot shall not permit to remain on a lot, any unsightly overgrowth of vegetation which, in the opinion of the local government or an authorised person, gives the lot an untidy appearance.
- (2) The local government or an authorised person may give notice in writing to the owner or occupier of a lot requiring the removal of the overgrowth of vegetation within the time specified in the notice.

3.8 Storage of vehicles, vessels and machinery

The owner or occupier of a lot shall not without the approval of the local government or an authorised person —

- (a) allow to remain in public view on any lot, more than 1 vehicle, vessel or machinery (whether licensed or not) that is in the opinion of an authorised person in a state of disrepair;
- (b) allow to remain in public view on any lot, any vehicle, vessel or machinery that is in the opinion of an authorised person, in a state of disrepair for a period in excess of

- 1 month;
- (c) allow to remain in public view on any lot, any vehicle parts, vessel parts or machinery parts (including disused tyres);
- (d) wreck, dismantle or break up any vehicle, part or body of a vehicle parts, vessel or machinery except where performed—
 - (i) inside a building; or
 - (ii) within an area enclosed by a fence or wall of not less than 1.8 metres in height and of such a nature as to screen all vehicles, parts or bodies of vehicles, vessels or machinery from the street and from adjoining properties; or
- (e) wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance.

Part 4 – Nuisances and dangerous things

Division 1-Light

4.1 Use of exterior lights

An owner or occupier of land on which floodlights or other exterior lights are erected or used, shall not allow the floodlights or other exterior lights to cause a nuisance.

4.2 Emission or reflection of light

An owner or occupier of land shall ensure that—

- (a) artificial light is not emitted or reflected from anything on the land so as to illuminate premises outside that land to more than 50 lux; and
- (b) natural light is not reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare.

4.3 Notice may require specified action to prevent emission or reflection of light

(1) Where—

- (a) floodlights or other exterior lights cause a nuisance;
- (b) artificial light is emitted or reflected from anything on the land so as to illuminate premises outside the land to more than 50 lux; or
- (c) natural light is reflected from anything on the land so as to create or cause a nuisance to the occupier of any other premises or to a person lawfully using a thoroughfare,

the local government may by notice in writing direct the owner or occupier to take such actions as an authorised person considers necessary within the time specified in the notice.

(2) The notice referred to in subclause (1) may direct that—

- (a) floodlights or other exterior lights are used only during the hours specified in the notice;
- (b) the direction in which the lights shine be altered as specified in the notice;
- (c) any reflective surfaces be painted or otherwise treated so as to abate the nuisance; or
- (d) any combination of these measures that the local government believes to be appropriate to the circumstances.

Division 2—Smoke, fumes, odours and other emissions

4.4 Burning rubbish, refuse or other material

- (1) A person shall not set fire to rubbish, refuse or other materials on land in a residential zone or on land in a rural residential zone unless —
 - (a) written approval has first been obtained from the local government;
 - (b) the person demonstrates to the satisfaction of the local government that reasonable alternatives for the disposal of the rubbish, refuse or other material do not exist and the potential for pollution is low;
 - (c) the material does not include any plastic, rubber, food scraps or other material likely to cause the generation of smoke or odour in such quantity as to cause a nuisance to other persons;
 - (d) a haze alert has not been issued by the Bureau of Meteorology for the period during which burning is to take place; and
 - (e) the burning complies with the *Bush Fires Act 1954*, any annual fire hazard reduction notice issued by the local government under that Act and any conditions of approval as determined by the local government.
- (2) Subclause (1) shall not apply to any barbecue, solid fuel water heater, space heater or ovens fired with dry paper, dry wood, synthetic char or charcoal type fuel.

4.5 Escape of smoke, fumes, odours and other emissions

An owner or occupier of land or premises shall take all reasonable steps to not cause or permit the escape of smoke, fumes or odours from the land or premises in such quantity or of such a nature as to cause or to be a nuisance to any person.

Division 3—Trucks

4.6 Livestock vehicles

- (1) A person shall not park a vehicle containing more than fifteen (15) livestock immediately adjacent to land in a residential zone, a rural residential zone or a commercial zone for a period in excess of 30 minutes.
- (2) A person shall not park a vehicle which contains or has been used for the carriage of livestock within the last twelve (12) months, so as to create or be a nuisance to any person, by reason of the odour emanating from the vehicle.

4.7 Truck noise from residential land

A person shall not start or drive a truck on land zoned, approved or used for residential purposes between the hours of 10.30 pm and 6.30 am on the following day without first obtaining the written consent of the local government.

Division 4—Swimming pool backwash management

4.8 Disposal of swimming pool backwash

- (1) The owner or occupier of land on which a swimming pool is constructed shall ensure that all backwash is not permitted to discharge onto or run-off onto adjacent land so as to cause a nuisance, or cause damage to any structures situated on adjacent land.
- (2) Subclause (1) shall not prevent the discharge of swimming pool backwash from a lot into a local government approved stormwater drain approved by an authorised person or road by a method approved by an authorised person.

Division 5—Stormwater management

4.9 Containment of stormwater

- (1) Subject to subclause (2), the owner or occupier of a lot shall ensure that all stormwater received by any building, house, other structure or any paved or sealed or other surfaced areas including any vehicle access ways on the lot is not permitted to discharge onto, or run-off onto adjacent land so as to cause a nuisance, or cause damage to any structures situated on adjacent land, unless the water is considered, in the opinion of an authorised person, to be naturally occurring or equivalent to naturally occurring runoff.
- (2) Subclause (1) shall not prevent the discharge of stormwater from a lot into a local government approved stormwater drain or road.

Division 6—Advertising, bill posting and junk mail

4.12 Placement of advertisement, bill posting or junk mail

- (1) A person shall not place in or on any letter box, gate, fence or generally leave or distribute to any property in the district, any handbill, poster, pamphlet, flyer or other form of advertising or promotional material, where there is clearly displayed a sign or notice which states “no junk mail” or words of similar effect.
- (2) Clause 4.12(1) does not apply to—
 - (a) delivery of articles by Australia Post;
 - (b) documents issued under or for the purposes of an Act of Parliament;
 - (c) an authorised person or member of the police force acting in the course of their duties;
 - (d) electoral materials; or
 - (e) legal process.

Division 7—Bird nuisance

4.14 Restrictions on feeding of birds

- (1) A person shall not feed a bird—
 - (a) so as to cause a nuisance, or
 - (b) with a food or substance that is not a natural food of a bird.
- (2) Where an authorised person forms the opinion that a person has not complied with subclause (1) the authorised person may serve the person a notice requiring the person to clean up and properly dispose of any feed or waste products specified in the notice.

Part 5 – Objection and review

5.1 Objection and review

Division 1 of Part 9 of the Act and regulation 33 of the *Local Government (Functions and General) Regulations 1996* applies to a decision under this local law to-

- (a) grant or renew a person a licence, approval or authorisation;
- (b) amend or cancel a licence, approval or authorisation; or
- (c) give a person a notice.

Part 6 - Enforcement

Division 1 - Notices

6.1 Notice of breach

- (1) Where a breach of any provision of this local law has occurred, the local government may give a notice in writing to the person alleged to be responsible for such breach.
- (2) A notice issued pursuant to subclause (1) shall—
 - (a) specify the provision of this local law which has been breached;
 - (b) specify the particulars of the breach; and
 - (c) state the manner in which the recipient is required to remedy the breach to the satisfaction of the local government within a time period stipulated in the notice which shall be not less than 14 days from the giving of the notice.
- (3) It is an offence to fail to comply with a notice issued by the local government pursuant to subclause (1).

6.2 Notice requirements

Where this local law refers to the giving of a notice, other than the giving of an infringement notice, and no particular form is prescribed, it will be sufficient that the notice be in writing giving adequate details to enable the owner, occupier or other person to whom the notice is issued to know the offence committed and the measures required to be taken or conditions with which compliance is required, as the case may be.

6.3 When local government may undertake requirements of notice

- (1) Where a person fails to comply with a notice referred to in subclause (1) the local government may, subject to compliance with the requirements of subdivision 3 of Division 3 of Part 3 of the Act, do anything that it considers necessary to achieve, so far as is practicable, the purpose for which the notice was given.
- (3) The local government may recover the cost of anything it does under subclause (2) as a debt due from the person who failed to comply with the notice.

Division 2 – Offences and penalties

6.4 Offences and penalties

- (1) A person who-
 - (a) fails to do anything required or directed to be done under this local law; or
 - (b) fails to comply with the requirements of a notice issued under this local law by an authorised person; or
 - (c) does anything which under this local law that person is prohibited from doing;commits an offence.
- (2) Where, under this local law, an act is required to be done or forbidden to be done in relation to any land or premises, the owner or occupier of the land or premises has the duty of causing to be done the act so required to be done, or of preventing from being done the act forbidden to be done.
- (3) A person who commits an offence under this local law shall be liable, upon conviction, to a maximum penalty of \$5,000 and a maximum daily penalty of \$500 in respect of each day or part of a day during which the offence has continued.

- (4) An offence against a clause specified in Schedule 1 is a prescribed offence for the purposes of section 9.16(1) of the Act.
- (5) The amount of the modified penalty for a prescribed offence is that specified adjacent to the clause in Schedule 1.

6.5 Form of infringement notices

- (1) Where a vehicle is involved in the commission of an offence, the form of the notice referred to in section 9.13 of the Act is that of Form 1 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*;
- (2) The form of the infringement notice referred to in section 9.16 of the Act is that of Form 2 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*; and
- (3) The form of the infringement withdrawal given under section 9.20 of the Act is that of Form 3 in Schedule 1 of the *Local Government (Functions and General) Regulations 1996*.

Schedule 1 – Prescribed Offences

[Clause 6.4]

ITEM NO.	CLAUSE NO.	DESCRIPTION	MODIFIED PENALTY \$
1	2.2(a)	Failure to keep premises free from excrement, filth, food waste and other matter likely to be offensive or injurious to health or attracts vermin or insects	\$250
2	2.2(b)	Failure to keep premises clean and disinfected when directed by an authorised person	\$250
3	2.2(c)	Failure to keep premises free of flies, or when directed by an authorised person, spray premises with residual insecticide or use other means to kill or repel flies	\$250
4	2.3	Failure to maintain adequate enclosures	\$250
5	2.4(1)	Keeping more than 3 cats over the age of 6 months without exemption from the local government	\$200
6	2.4(7)	Breeding cats, not being an approved cat breeder	\$200
7	2.5	Keep, or permit to be kept, any poultry, not in accordance with conditions of this local laws	\$200
8	2.8	Keep, or suffer to remain in a residential area, a rooster, turkey, goose or geese, or peafowl	\$200
9	2.9(2)	Failing to keep cages, enclosures and lofts maintained to minimum standard specified in the Code of Practice	\$200
10	2.11	Failing to prevent pigeons nesting or perching	\$200
11	2.12	Failing to keep aviary birds in accordance with conditions of this local law	\$200
12	2.13	Keeping birds so as to create a nuisance	\$200
13	2.15(1)	Keeping bees without a valid licence	\$200
14	2.18(1)	Failure to comply with a condition of a licence to keep bees	\$200

ITEM NO.	CLAUSE NO.	DESCRIPTION	MODIFIED PENALTY \$
15	2.22	Creation of a nuisance from keeping of bees or bee hives	\$200
16	2.23(1)	Failure to comply with a notice to remove bees or bee hives for contravention of local law	\$200
17	2.31	Keeping a miniature horse on land without approval	\$200
18	2.32(1)(2)(3)	Keeping a miniature pig on land without approval	\$200
19	2.34	Permitting livestock to stray, or be at large in a street, public place or private property without consent	\$200
20	2.36	Failing to keep property fenced in a manner capable of confining livestock	\$200
21	3.1	Failure to provide or maintain a refuse receptacle on a building or development site	\$500
22	3.2	Failure to control refuse on a building or development site	\$500
23	3.3	Unauthorised storage of materials	\$500
24	3.4	Release or escape of excessive dust or liquid waste from land	\$500
25	3.5	Commencing works involving clearing of land without an approved Dust Management Plan	\$500
26	3.6	Burning of cleared vegetation or other material from a building or development site	\$500
27	3.9(a)	Allow to remain in the public view, on land, more than 1 vehicle, vessel or machinery in a state of disrepair	\$500
28	3.9(b)	Allow to remain in public view, on land, any vehicle, vessel or machinery in a state of disrepair for a period in excess of 1 month	\$500
29	3.9(c)	Allow to remain in public view, on land, any vehicle parts, vessel parts or machinery parts (including tyres)	\$500
30	3.9(d)(i)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery not inside a building	\$500
31	3.9(d)(ii)	Wreck, dismantle or break up any vehicle part or body, vessel or machinery not behind a sufficient fence or wall	\$500
32	3.9(e)	Wreck, dismantle or break up a vehicle, vessel or machinery so as to cause a nuisance	\$500
33	3.10	Disposing of disused refrigerator or similar container with door/lid that can be fastened without removing the refrigerant, door, lid, lock, catch, hinge and rendering the door/lid incapable of being fastened	\$500
34	4.1	Erection or use of lighting installations other than in accordance with this local law	\$500
35	4.2	Emitting light so as to create or cause a nuisance	\$500
36	4.5	Permitting the escape of smoke, fumes, odours and other emissions so as to cause a nuisance	\$500

ITEM NO.	CLAUSE NO.	DESCRIPTION	MODIFIED PENALTY \$
37	4.6(1)	Parking a livestock vehicle in a residential zone or commercial zone in excess of 30 minutes	\$500
38	4.7	Starting or driving a truck on residential land, or adjoining residential land, without consent of the local government	\$500
39	4.8(1)	Discharging swimming pool backwash onto adjacent land so as to cause a nuisance or cause damage	\$500
40	4.9(1)	Failure to ensure that all rainwater or storm water received by a lot and any building, house or structure on the lot, is discharged directly to a stormwater drain or road	\$500
41	4.12(1)	Unauthorised placement of advertisement, bill posting or junk mail	\$100
42	4.12(2)	Placement of advertisement, bill posting or junk mail where a "no junk mail", or equivalent, sign is displayed	\$500
43	4.14(1)(a)	Feeding a bird so as to create or cause a nuisance	\$500
44	4.14(1)(b)	Feeding a bird a food/substance that is not a natural food	\$500
45	6.4(1)(b)	Failure to comply with notice	\$500
46		All other offences not specified	\$100

The Common Seal of
the Shire of Cunderdin
was hereunto affixed by
authority of the Council in
the presence of-

on this _____ day of _____, 2026.

SHIRE PRESIDENT

CHIEF EXECUTIVE OFFICER

Consented to—

EXECUTIVE DIRECTOR
PUBLIC HEALTH

Dated this _____ day of _____, 2026
